

AMENDED IN SENATE MAY 2, 2007
AMENDED IN SENATE MAY 1, 2007
AMENDED IN SENATE APRIL 12, 2007

SENATE BILL

No. 498

Introduced by Senator Oropeza

February 22, 2007

An act to add Chapter 5 (commencing with Section 9996) to Division 3.6 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 498, as amended, Oropeza. Vehicles: total loss salvage vehicles.

(1) Existing law places restrictions on the disposition of nonrepairable vehicles, as defined. *Any violation of the Vehicle Code is a crime.*

This bill would prohibit a person, who determines pursuant to specified provisions of law that a vehicle due to salt water damage is a total loss salvage vehicle, from selling, consigning, or otherwise transferring that vehicle to a person or entity in California, except to a licensed automobile dismantler to be crushed, demolished, or destroyed. A person or entity would be prohibited from knowingly buying, selling, consigning, or transferring that vehicle except to a licensed automobile dismantler to be crushed, demolished, or destroyed.

~~The bill would make a violation of either of the above prohibitions a misdemeanor and, additionally,~~ would make a violation of those provisions, *in addition to the fine for an infraction*, subject to a fine of not less than double the amount realized from a transaction in violation of those prohibitions.

Because a violation of those prohibitions would be a crime, this bill would impose a state-mandated local program.

The bill would provide that nothing in this bill shall be construed to limit or modify other statutory or common law rights or remedies of consumers with regard to vehicles that are damaged by water; and would provide that the sanctions, rights, and remedies provided by this act are cumulative and shall not be construed as restricting a sanction, right, or remedy that is otherwise available.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In the fall of 2005, the Department of Motor Vehicles, the
4 American Association of Motor Vehicle Administrators, numerous
5 other state motor vehicle agencies, and consumer groups issued
6 warnings to consumers to be aware of preowned vehicles that may
7 have been damaged by flooding from sources that include
8 Hurricanes Katrina and Rita. Many of these vehicles may be offered
9 for sale with improper or washed titles neglecting the fact that the
10 vehicles have been salvaged or repaired.

11 (b) The National Insurance Crime Bureau online database listed
12 seven hurricane-damaged 2005 Nissans that were sold at a southern
13 California auto salvage auction in 2005. According to the State
14 Insurance Commissioner, "... as many as 600,000 vehicles were
15 swamped by the flood waters from the heavy rains, breached
16 levees, and storms of Hurricanes Katrina, Rita, and Wilma last
17 year." The Automobile Club of Southern California estimated that,
18 "at least half of those will end up on the used car market instead
19 of being scrapped."

20 (c) Vehicles inundated in saltwater are irreparably damaged,
21 posing serious safety risks. Saltwater is highly corrosive and can
22 damage many electrical and sensory components of a vehicle,
23 including, but not limited to, the triggers for airbags, antibraking

1 system components, and many other systems that are generally
2 not inspected thoroughly during a purchase.

3 (d) Vehicles that have sat in saltwater mixed with sewage can
4 result in health risks. Hurricane floodwaters contain numerous
5 toxins, including, but not limited to, raw sewage, E. coli,
6 petrochemicals, human and animal remains, arsenic, and lead.

7 (e) In February of 2006, it was reported that a firefighter in
8 Mississippi died from septic shock contracted through a scratched
9 finger suffered while extracting a victim from a crashed “Katrina
10 Car.” According to the Coordinating Committee for Automotive
11 Repair, “flood waters from New Orleans tested at 50 times above
12 the danger level for sepsis toxin, which enters the bloodstream and
13 spreads rapidly from just the tiniest break in the skin.”

14 SEC. 2. Chapter 5 (commencing with Section 9996) is added
15 to Division 3.6 of the Vehicle Code, to read:

16
17 CHAPTER 5. TOTAL LOSS SALVAGE VEHICLE
18

19 9996. (a) Notwithstanding Section 11515, a person who
20 determines that a vehicle is a total loss salvage vehicle due to salt
21 water damage pursuant to subdivision (a) of Section 544 or a
22 similar statute of another state, shall not sell, consign, or otherwise
23 transfer that vehicle to a person or entity in California, except to
24 a licensed automobile dismantler to be crushed, demolished, or
25 destroyed.

26 (b) Notwithstanding Section 11515, a person or entity shall not
27 knowingly buy, sell, consign, or otherwise transfer a vehicle
28 described in subdivision (a) except to a licensed automobile
29 dismantler to be crushed, demolished, or destroyed.

30 ~~(c) A violation of subdivision (a) or (b) is a misdemeanor.~~

31 ~~(d)~~

32 ~~(c)~~ In addition to any other penalties *the penalty prescribed by*
33 *subdivision (a) of Section 42001*, a violation of subdivision (a) or
34 (b) is punishable by a fine of not less than double the amount
35 realized from a transaction in violation of this section.

36 9997. Nothing in this chapter shall be construed to limit or
37 modify any other statutory or common law rights or remedies of
38 consumers with regard to vehicles that are damaged by water. The
39 sanctions, rights, and remedies provided by this chapter are

1 cumulative and shall not be construed as restricting a sanction,
2 right, or remedy that is otherwise available.

3 SEC. 3. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

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